

WHAT YOU NEED TO KNOW ABOUT COMMON UNIFORM COMMERCIAL CODE (UCC) FORMS



**“UCC forms are critical
to a number of
financial processes.”**

The Uniform Commercial Code (UCC) is a set of regulations adopted to make commerce from state to state easier. It covers consensual agreements between parties and does not include non-consensual filings like tax liens. While the intent of the code is for cohesiveness among the states there are distinctions among the states. A number of these are found with each state's filing requirements.

UCC forms are critical to a number of financial processes. Several nuances can affect your UCC standing. When filing, the burden is on the filer to make sure everything is accurate. Incomplete or inaccurate forms affect both notice and financial priority, and an error as simple as an extra space can render the document completely unusable.

This article will look at UCC-1 and UCC-3 forms, reasons to file and common mistakes.

UCC-1 FORMS

The most common UCC form is the UCC-1, or Financing Statement. These forms are routine in the case of secured loan, where the lender uses the UCC-1 to place a lien on a particular piece of collateral or all assets belonging to a business or person.

WHY FILE A UCC-1 FORM?

In addition to creating a public notice of a lien, the financing statement is also used to perfect a security interest or to show priority over third-party creditors. It is a legal document and public record. The UCC-1 serves as evidence in the case of any legal disputes over liability.

LEGAL REQUIREMENTS FOR THE UCC-1

In order for a UCC-1 to hold weight in a legal proceeding, it must include the exact legal name of the debtor, the collateral included in the lien and the name of the secured party. When listing collateral, the law doesn't require a detailed description. However, your deal may require additional details like disclaimers and subordination.

PROBLEMS WITH UCC-1 FORMS

The most common problem with these financing statements is determining the exact legal name of the party. Changes in the code in 2013 have altered the process in determining the correct debtor name.

In most cases, financing statements apply to businesses. Use the organic public record to find the exact legal name of the debtor. The only document that is sufficient is the most recent

continued on page 2

charter document where the business is registered. This will usually be the Articles of Incorporation or Articles of Organization.

Relying on the Certificate of Good Standing for the correct debtor name is no longer an option. Such information is deemed “compiled data” or in other words individuals manually entered this corporate information into the system. Thus there is a chance this information was entered incorrectly.

If a company has a DBA or FKA, that should not be included. Instead, list the DBA as a separate debtor in order to include all possible names. You may also elect to leave the DBA information off the UCC 1 to avoid confusion.

Record the name exactly as it appears on the legal document. These common shortcuts or mistakes could void your UCC-1 entirely:

- Using an ampersand (&) in place of the word “AND”
- Recording a numeral where the document uses the written version of a number (ex. 3 instead of “three”)
- Creating a plural for a singular company name (“Sons” instead of “Son”)
- Punctuation where there is none, leaving out punctuation
- Extra spaces

INDIVIDUALS ON UCC-1 FINANCING STATEMENTS

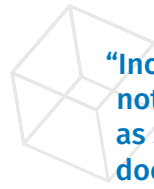
Though businesses are more likely to be listed as debtors on financing statements, it is possible to have an individual debtor. The same requirements for exact legal name exist, but can sometimes be more problematic than businesses in determining the correct name.

The good news is that 43 states now require individual names to be listed as on their driver’s licenses. This allows for no misinterpretations of the requirement. Regardless of the name used on the collateral, what is listed on their license is what goes on the UCC-1.

Another option that is currently used by Delaware and six other states is called the “Safe Harbor” option. The court comes up with acceptable legal names and any one of those names can be listed on the form. While this gives a degree of flexibility, it can also be more difficult for due diligence searches.

UCC-3 FORMS

These forms are not standalone forms, but amendments to financing statements.



“Incomplete or inaccurate forms affect both notice and financial priority, and an error as simple as an extra space can render the document completely unusable.”

WHY FILE A UCC-3 FORM?

The UCC-3 is the Swiss-Army-Knife of forms. Unlike a UCC 1, a UCC 3 can be used for multiple purposes. The actions one can take are Amendment, Assignment, Continuation, and Termination.

FOUR TYPES OF UCC-3 FORMS:

1. Amendment

An amendment makes changes to errors or standard adjustments on the UCC-1, which could be for the secured party, debtor or collateral.

2. Assignment

When a secured party needs to assign or transfer all or a portion of its rights to the collateral listed in a UCC-1 financing statement. It is considered an alteration of the previous filing.

3. Continuation

This type of UCC-3 continues the agreement for five years past the maturity date. It must be submitted in the six months before the UCC-1 matures.

4. Termination

A termination is a public notice and record that the secured party no longer has interest in the collateral. Usually filed prior to the five-year lapse date.

UCC-3 IMPORTANT POINTS

When filing a UCC-3, only make one change at a time. States will most likely reject a UCC-3 that is both an amendment and continuation. File separate forms for each change, in a logical sequence. If a new debtor is added, you cannot continue an agreement with them until they are added.

Pay attention to who has the authority to file. A debtor has to agree to enter into the UCC-1 process from the start. Changes

continued on page 3

made on behalf of a secured party must have permission from all secured parties involved (if more than one). A recent case that determined 1.5 billion dollars of priority was decided in part on the issue of authority.

Be sure to file all necessary amendments in a timely manner. A debtor has the right to dispute information they feel is inaccurate in the record. Failing to assign or continue can result in a release of the lien.

Article 9 of the Uniform Commercial Code (Secured Transactions) covers financing statements including filing requirements and disposition.

LEARN MORE

Learn how CT can become your partner for the most accurate [UCC filing services](#), visit us today or call (844) 701-2064 (toll-free USA).

View the on-demand webinar: <https://ct.wolterskluwer.com/resource-center/videos/on-demand-webinar-ucc-all-about-the-forms>

Join the conversation. Follow us on [Twitter](#), [LinkedIn](#), [Google+](#) and [Facebook](#).